

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ROBBY DEE KESLER,

Plaintiff,

v.

WARDEN GETER, FCI TEXARKANA

Defendants.

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CIVIL ACTION NO. 5:20-CV-00017-RWS-JBB

ORDER

Before the Court is the Magistrate Judge's Report and Recommendation that contains proposed findings of fact and recommends this petition for writ of habeas corpus be denied. Docket No. 8.

Petitioner Robby Dee Kesler, an inmate confined at the Federal Correctional Institution in Texarkana, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Docket No. 1. Petitioner asserts that the Bureau of Prisons abused its administrative discretion by denying his request for *nunc pro tunc* designation for time spent in state custody. *Id.* at 2. The Magistrate Judge's Report and Recommendation explains that the Bureau of Prisons did not abuse its discretion and Petitioner is not entitled to a *nunc pro tunc* designation because the federal sentence was imposed after the state sentence and the district court ordered that the federal sentence run concurrently with petitioner's state sentence. Docket No. 8 at 2–3.

The parties have not objected to the Report and Recommendation. Because Petitioner filed no objections to the Report and Recommendation, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions and recommendations; and, except upon grounds of plain error, Petitioner is also barred from appellate review of the unobjected-to factual findings

and legal conclusions accepted and adopted by the District Court. *See Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

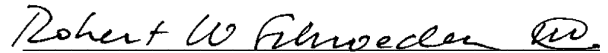
The Court has reviewed the pleadings and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined the Report and Recommendation of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (noting that where no objections to a Magistrate Judge's Report and Recommendation are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") Accordingly, it is

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 8) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Petition for Writ of Habeas Corpus (Docket No. 1) is **DENIED**. It is further

ORDERED that the above-captioned case is **DISMISSED WITH PREJUDICE**. A final judgment will be entered in this case in accordance with this Order.

So ORDERED and SIGNED this 22nd day of March, 2023.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE